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7 *Attorneys for Plaintiff*
8 *GameTech International, Inc.*

9 UNITED STATES DISTRICT COURT

10 DISTRICT OF NEVADA

11
12 GAMETECH INTERNATIONAL, INC., a
13 Delaware corporation,

CASE NO. 3:11-cv-00226-HDM-RAM

14 Plaintiff,
15 vs.

**REQUEST FOR EXTENSION OF TIME
IN WHICH TO SERVE THE
COMPLAINT
(First Request)**

16 PALMETTO BINGO SYSTEMS, a South
Carolina entity, DOE DEFENDANTS 1 through
17 10, ROE ENTITIES 1 through 10,

18 Defendants.

19 GAMETECH INTERNATIONAL INC. ("Plaintiff"), by and through its attorneys, Jones
20 Vargas, for good cause requests an extension for the time to serve its Complaint against Palmetto
21 Bingo Systems. This request is based on Rule 4(m) of the Federal Rules of Civil Procedure, the
22 memorandum of points and authorities attached hereto, the affidavit attached hereto, and any other
23 evidence the Court may wish to consider. This is the first request for an extension of time to serve
24 the complaint.

25 **MEMORANDUM OF POINTS AND AUTHORITIES**

26 Generally, service of a complaint on a defendant should occur within 120 days from the
27 date the complaint is filed or it may be subject to dismissal. FRCP 4(m). However, where good
28 cause exists for the failure of the plaintiff to serve the defendant, the court must extend the time for

1 service of the complaint. Good cause exists when a party demonstrates excusable neglect and the
2 following factors are considered: "(a) the party to be served personally received actual notice of
3 the lawsuit; (b) the defendant would suffer no prejudice; and (c) plaintiff would be severely
4 prejudiced if his complaint were dismissed." Lemoge v. U.S., 587 F.3d 1188, 1198 (9th Cir.
5 2009). To determine whether circumstances rise to the level of excusable neglect (and therefore
6 whether good cause exists), a court will consider "(1) the danger of prejudice to the opposing
7 party; (2) the length of the delay and its potential impact on the proceedings; (3) the reason for the
8 delay; and (4) whether the movant acted in good faith." Id. at 1192.

9 Here, good cause exists because the Plaintiff and Defendant have been in constant
10 communication regarding the lawsuit almost since the lawsuit was filed. Declaration of W. Klomp
11 at ¶4, attached hereto as **Exhibit "1"**. GameTech filed its complaint on or about March 31, 2011.
12 Complaint (Dkt. #1). Since that time, the Parties have been engaged in efforts to negotiate a
13 settlement and are at the cusp of settling this matter without court involvement at all. Klomp Decl.
14 at ¶5. With a few more weeks, it is likely the parties will have settled this matter. Id.

15 Given that the Parties are working amicably toward a full and final resolution, neither party
16 would suffer prejudice if this Court granted a short extension of the time to serve the complaint.
17 In fact, counsel for Plaintiff has discussed this request with counsel for Defendant. Defendant's
18 counsel has expressed that Defendant would prefer to continue settlement negotiations rather than
19 engage in potentially prolonged and expensive discovery and litigation. Id. at ¶6. Both parties are
20 interested in conserving resources and resolving this dispute without incurring the time and
21 expense associated with mandatory litigation deadlines. Id.

22 Finally, Defendant in this action has filed a separate action regarding the same transactions
23 about which Plaintiff complains in the Federal District Court in and for the District of South
24 Carolina. Palmetto Paper & Specialties Inc. v. GameTech Int'l, Inc., Case No. 3:11-cv-00960
25 (D.S.C. Apr. 21, 2011). Service has not been completed against GameTech as defendant in that
26 action. The Parties are keenly aware of the service issues in that case and are attempting to resolve
27 both lawsuits prior to the time for service in the South Carolina Action.

28 ///

1 Because there will be no prejudice to the Defendant and Defendant is aware of the lawsuit,
2 because the purpose of the delay is to potentially avoid litigation completely, and finally because
3 GameTech has acted in good faith in requesting this extension, good cause exists and an extension
4 of 60 days should be granted for the time in which Plaintiff has to serve the Defendant with the
5 complaint in order to give the Parties time to resolve this conflict.

6 DATED this 29th day of July, 2011.

7 JONES VARGAS

8
9 /s/ Wayne Klomp

10 MOLLY M. REZAC

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12 WAYNE KLOMP

13 State Bar No. 10109

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16 Reno, NV 89504-0281

17 *Attorneys for Plaintiff*

18 *GameTech International, Inc.*

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IT IS SO ORDERED.


UNITED STATES MAGISTRATE JUDGE

August 1, 2011

Dated: _____

JONES VARGAS
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Tel: (775) 786-5000 Fax: (775) 786-1177

EXHIBIT 1

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8 *Attorneys for Plaintiff*
GameTech International, Inc.

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10 UNITED STATES DISTRICT COURT
11 DISTRICT OF NEVADA

12 GAMETECH INTERNATIONAL, INC., a
13 Delaware corporation,

CASE NO. 3:11-cv-00226-HDM-RAM

14 Plaintiff,
15 vs.

**DECLARATION OF WAYNE KLOMP
IN SUPPORT OF REQUEST FOR
EXTENSION OF TIME IN WHICH TO
SERVE THE COMPLAINT**

16 PALMETTO BINGO SYSTEMS, a South
Carolina entity, DOE DEFENDANTS 1 through
10, ROE ENTITIES 1 through 10,
17

Defendants.
18 _____/

19 I, WAYNE KLOMP, do hereby swear under penalty of perjury that the assertions of this
20 Declaration are true.

21 1. I am over the age of 21 years and the allegations contained herein are true and
22 correct to the best of my information and belief. I am an attorney at the law firm of Jones Vargas,
23 which represents Plaintiff GameTech International, Inc. in the above captioned litigation.

24 2. With the exception of those matters stated upon information and belief, I have
25 personal knowledge of each of the matters stated herein and could testify competently to the same
26 under oath in a court of law if called upon to do so.

27 3. I make this Declaration in support of GameTech's Request for Extension of Time in
28 which to Serve the Complaint in the above captioned case.

1 4. I have been in contact with counsel for Defendant, Palmetto Bingo Systems, from
2 well before this lawsuit was initiated. From the time I first contacted Defendant's counsel, we
3 have been engaged in productive settlement discussion, both before and after the Complaint in this
4 action was filed.

5 5. I believe the parties are close to resolving both this lawsuit and the lawsuit filed by
6 Palmetto in South Carolina against GameTech International. I believe that within a few more
7 weeks, the parties will have resolved this matter or will be prepared to litigate having given every
8 effort to the resolution of their differences.

9 6. In speaking with counsel for the Defendant, he is aware of the filing of this request
10 for extension of time and, in fact, encouraged the filing of the request rather than the service of the
11 Complaint which would initiate litigation deadlines which both parties seek to avoid.

12 I, WAYNE KLOMP , do hereby swear under penalty of perjury, that the assertions of this
13 affidavit are true.

14 /s/ Wayne Klomp
15 _____
16 WAYNE KLOMP
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